

H-45
Electron
PATENT
Attorney Docket No. 2356.0043-02
1/1/01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Philippe SANSONETTI et al.)
Serial No.: 08/466,698) Group Art Unit: 1645
Filed: June 6, 1995) Examiner: Mark Navarro
For: METHOD FOR PRODUCING)
TRANSFORMED SHIGELLA)
(AS AMENDED))

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

In a restriction requirement dated December 15, 2000, the Examiner required restriction under 35 U.S.C. § 121 between the claims of Group I (claims 24-37 and 39-46) and Group II (claims 38-45). Applicants provisionally elect to prosecute Group I, claims 24-37 and 39-46, with traverse.

A restriction requirement is proper when (1) the inventions are independent or distinct as claimed; and (2) there is a serious burden on the Examiner. Applicants submit that it would not pose a serious burden on the Examiner to search the subject matter of the groups of inventions together since the recitation "Shiga-toxin gene" of independent claim 38 (Group II) is also contained in dependent claims of Group I (*e.g.* claims 26, 30, and 37). Since strains containing modified Shiga-toxin genes are encompassed with the subject matter of the claims of Group I and Group II, examining the claims of Group II together with the claims of Group I would not require



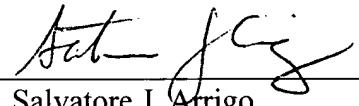
Serial N . 08/466,698

any serious burden for the Examiner. Therefore, applicants request reconsideration of the restriction requirement and the examination of all groups together in the instant application.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

By: 
Salvatore J. Arrigo
Reg. No. 46,063
Tel: (202) 408-4000
Fax: (202) 408-4400
Email: arrigos@finnegan.com

Dated: January 25, 2001